



3.

The above-entitled cause is breach of contract suit brought by the Plaintiffs for an unspecified amount of actual damages as a result of Defendant's denial of insurance coverage with respect to a claim made under its multiple policies of liability insurance. Specifically, Plaintiffs seek recovery for alleged breach of contract, plus expenses and statutory penalties, for Fairmont's denial of coverage of claims asserted against Adams in a lawsuit filed in Louisiana (the "Underlying Action"). The nature of this case is more fully stated in Plaintiff's Original Petition, a copy of which is filed herewith as Exhibit A.

4.

The allegations contained in Plaintiff's Original Petition do not place Defendants on notice as to whether that the amount in controversy, exclusive of interest and costs, exceeds \$75,000. 28 U.S.C. §1332. The policies at issue provide millions of dollars in coverage. The Underlying Action against Plaintiffs alleges that they are liable for extensive and costly environmental contamination caused by historical oil and gas operations. Similar actions in Louisiana have resulted in damage awards in the tens of millions of dollars. *See Corbello v. Iowa Production*, 850 So. 2d 686 (La. 2003). In addition to the actual damages alleged, Plaintiff's petition seeks statutory damages for alleged "knowing" and "intentional" violations of the Texas Insurance Code which, if proven, may entitle Plaintiff to recover up to three times its actual damages. *See* Exhibit A, ¶ 21. As such, it is apparent that Plaintiffs' claim exceeds the sum of \$75,000, exclusive of interests and costs, and exceeds the minimum amount in controversy as required by 28 U.S.C. § 1332.

5.

Harris County is within the territorial jurisdiction of the United States District Court, Southern District of Texas, Houston Division.

6.

The basis for jurisdiction in this Court is diversity of citizenship under 28 U.S.C. §1332.

#### **PARTIES**

7.

At the time Plaintiffs filed their Original Petition, and at the time Defendant subsequently filed its Notice of Removal, Plaintiffs Adams Resources & Energy, Inc. and Adams Resources Exploration Company were/are corporations organized under the laws of the State of Delaware and Plaintiff Ada Resources, Inc. was/is a corporation organized under the laws of Texas. Plaintiffs all maintained their principal places of business in the State of Texas.

8.

At the time Plaintiffs filed their Original Petition, and at the time Defendant subsequently filed its Notice of Removal, Fairmont was/is organized under the laws of the state of California with a principal place of business in New Hampshire.

#### **DIVERSITY JURISDICTION**

9.

This is a civil action over which this Court has original jurisdiction under the provisions of 28 U.S.C. § 1332, and is one which is removable to this Court pursuant to 28 U.S.C. § 1441 in that there is complete diversity of citizenship between Plaintiffs and Defendant.

**10.**

Defendant therefore desires to remove the above-entitled cause from the Harris County District Court of Texas to the United States District Court for the Southern District of Texas, Houston Division.

**REMOVAL PROCEDURE**

**11.**

Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is filed within thirty (30) days after receipt by Defendant of a copy of the initial pleading setting forth the claim.

**12.**

Pursuant to 28 U.S.C. § 1446(a) and Local Rule LR81, the following exhibits are attached hereto and are incorporated herein by reference:

- a. Exhibit A: Pleadings that Assert Causes of Action
- b. Exhibit B: All Executed Service of Process
- c. Exhibit C: All Orders Signed by State Judge
- d. Exhibit D: Docket Sheet
- e. Exhibit E: Index of matters being filed
- f. Exhibit F: List of Counsel

**13.**

Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being filed with the District Clerk of Harris County, Texas, and written notice is being provided to all adverse parties.

**JURY DEMAND**

A jury demand is requested.

**PRAYER**

WHEREFORE, Fairmont respectfully requests that the above entitled action be removed from the 127th Judicial District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division.

Respectfully submitted,

PHELPS DUNBAR LLP

By: /s/ Peri H. Alkas

Peri H. Alkas

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**ATTORNEY-IN-CHARGE FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the above **Notice of Removal** has been forwarded by ECF on this the 13th day of February, 2015 to:

Michael E. Richardson  
BECK REDDEN LLP  
1221 McKinney St., Suite 4500  
Houston TX 77010-2010

VIA: MRichardson@beckredde.com

/s/ Peri H. Alkas  
Peri H. Alkas